

Unrelated income; business league; job injury information service. An exempt business league that provides job injury histories on prospective employees from public state workmen's compensation records to business concerns on an expedite basis for a specified fee is engaged in an unrelated trade or business.

Advice has been requested whether income realized by an organization exempt from Federal income tax as a business league, or trade association, under section 501(c)(6) of the Internal Revenue Code of 1954 from the activity described below is subject to the unrelated business income tax imposed by section 511. The question is whether the activities from which the income derives constitute the conduct of unrelated trade or business as defined in section 513.

The organization is a nonprofit membership organization composed of business concerns in a particular state. In addition to activities which qualify it for exemption under section 501(c)(6) of the Code, the organization has undertaken a program of securing and supplying business concerns with job injury histories on prospective employees upon request. The service is available to member and non-member business concerns alike and a charge, which is set at an amount calculated to return the organization a profit on the undertaking, is made for the service.

The activities involved in developing and supplying the job injury histories consist of a search of the state workmen's compensation records, which are open to the public. The organization searches the public records for prior history of injury and distributes the results to the business concern requesting the information.

The job injury information may be obtained, without charge, by any person upon application to the workmen's compensation board of the state. Business concerns seeking this type of information in connection with job applications, however, frequently have deadlines on their inquiries which cannot be met by direct requests to the state or by using private reporting services which supply such information. The organization states that it undertook the program in question solely because the service was not readily available from any other source on a comparable expedite basis.

Section 511(a) of the Code imposes a tax on the unrelated business taxable income of certain organizations otherwise exempt from Federal income tax, including organizations described in section 501(c)(6). Section 512, with certain exceptions, defines 'unrelated business taxable income' as the gross income derived from any unrelated trade or business regularly carried on, less certain deductions, and with certain modifications.

Section 513 of the Code defines the term 'unrelated trade or business' as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance of such organization of its charitable, educational, or other purpose or function constituting the basis for exemption under section 501.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that trade or business is 'related' to exempt purposes only where the conduct of the business activities has causal relationship to the achievement of exempt purposes (other than through the production of income); and it is 'substantially related,' for purposes of section 513, only if the causal relationship is a substantial one. Thus, for the conduct of trade or business to be substantially related to the purposes for which exemption is granted, the production of the goods or the performance of the services involved must contribute importantly to the accomplishment of those purposes.

It is conceded that the performance of the services from which the income in question is derived constitutes the regular conduct of trade or business. The organization, nevertheless, contends that the services contribute importantly to the accomplishment of exempt purposes of the organization by providing information that is not otherwise readily available to the business community within the time limits required; that assisting employers in securing the information on an expedite basis contributes to efficiency in regard to operations of the members of the business community.

The services involved, however, go well beyond any mere development and promotion of efficient business practices in respect to a business community as a whole. In providing the service in question, the organization is furnishing individual members of the business community with a regular commercial-type business service required and utilized in day-to-day operations of the business concerns that request the service. As such, the service is not one which promotes the business interests of the members in common or as a whole, but rather is an activity that constitutes the performance of a particular service of a commercial nature for individual business concerns. Cf. Rev. Rul. 68-265, 1968-1 C.B. 265 holding that furnishing credit information to members does not qualify as an activity in furtherance of any exempt purpose under section 501(c)(6) of the Code. The fact that the securing of the information in question on an expedite basis is not otherwise readily available in this instance does not alter the commercial nature of the service or the fact that the service relates to individual business needs of the business concerns involved.

Accordingly, the income realized by the organization from furnishing business employers job injury histories on prospective

employees constitutes income from unrelated trade or business within the meaning of section 513 of the Code.